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from continuing business, is rightly reversed by the principal case, on the ground that the covenant no longer attached to the land after the surrender of the premises to the landlord, who had no notice of the restriction. For a discussion of the principles involved, see 24 HARV. L. REV. 574.

SALES — IMPLIED WARRANTIES — REASONABLE FITNESS FOR PARTICULAR PURPOSE. — The defendant bought some cloth of the plaintiff who knew it was to be used for making clothes. The plaintiff sued for the balance of the price which the defendant refused to pay because the cloth was unfit for the intended purpose. *Held*, that there was an implied warranty of the cloth's availability for use in making clothes. *Rhodesia Mfg. Co. v. Tombacher*, 129 N. Y. Supp. 420 (Sup. Ct., App. Term). See NOTES, p. 75.

TAXATION — GENERAL LIMITATIONS ON THE TAXING POWER — CONSTITUTIONALITY OF SALE OF TAX LIENS. — A statute authorized the sale of tax liens by a city to private persons, and gave the purchaser the right to enforce these liens by foreclosure proceedings. *Held*, that the statute is constitutional. *Gautier v. Ditmar*, 45 N. Y. L. J. 941 (N. Y., App. Div., May, 1911).

As there are practically no specific constitutional restrictions on taxation in New York, the present statute can only be unconstitutional if it is an improper delegation of power. If, like the old French and Roman systems of tax-farming, it included the assessment of taxes, there would probably be such delegation. See 2 COOLEY, TAXATION, 3 ed., 831. But tax-collecting requires little discretion, and the office, in contrast to other public offices, has at times been sold to the highest bidder. *Alvord v. Collin*, 20 Pick. (Mass.) 418. In the absence of statute a tax-lien is not transferable. *Hinchman v. Morris*, 29 W. Va. 673. But a party who has paid the taxes to protect an interest which he has in the property often enforces a very similar lien. *Farmer v. Ward*, 75 N. J. Eq. 33. The purchaser of land at an invalid tax sale may be given such a lien by statute, and in some states the statute recognizes that this lien is actually transferred to him from the state. *Arn v. Hoppin*, 25 Kan. 707; IND., ACTS OF 1891, c. XCIX, § 214; *Cole v. Gray*, 139 Ind. 396. In fact, in Georgia, since the statute of 1872, tax executions have been sold to the highest bidder, and the constitutionality of the sales has not even been questioned. CODE OF GA., 1911, § 1145.

TAXATION — PROPERTY SUBJECT TO TAXATION — TAXATION OF FOREIGN CORPORATIONS ENGAGED IN INTERSTATE COMMERCE. — Under a constitutional provision, a Minnesota statute assessed on an express company, organized in New York and engaged in interstate commerce, "a tax of six per cent upon its gross receipts for business done between points within this state, in lieu of all taxes upon its property." *Held*, that this is not a regulation of interstate commerce. *State v. United States Express Co.*, 131 N. W. 489 (Minn.).

The principal case presents an example of a common, though unscientific, method of taxing foreign corporations engaged in interstate commerce. Though levied in terms upon an unpermissible object of taxation, it is regarded as, in substance, a tax upon permissible objects. Since no state can regulate interstate commerce, no foreign corporation can be taxed for the privilege of doing interstate business in the state. *Atlantic & Pacific Tel. Co. v. Philadelphia*, 190 U. S. 160. But see *Maine v. Grand Trunk Ry. Co.*, 142 U. S. 217, 227. So an "occupation tax" or "franchise tax" is not permissible. *Galveston, Harrisburg, & San Antonio Ry. Co. v. State of Texas*, 210 U. S. 217. But all the property of the corporation within the state, both tangible and intangible, may properly be taxed by the state. *Adams Express Co. v. Ohio State Auditor*, 166 U. S. 185. See BEALE, FOREIGN CORPORATIONS, § 741. The substance and not the form of the tax is material. *Postal Tel. Cable Co. v. Adams*, 155 U. S. 688. Cf. *Postal Tel. Cable Co. v. City of Richmond*, 99 Va. 102, 108. And this method